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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,065	01/15/2004	Joseph Francis Kitching	9149Q	5113
27752 7590 03/12/2007 THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL BUSINESS CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			EXAMINER BUTLER, MICHAEL E	
			ART UNIT	PAPER NUMBER
			3653	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/12/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/758,065

Applicant(s)

KITCHLING ET AL.

Examiner

Michael Butler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action, and apply to this and any subsequent Office Actions.

Priority

1. Applicant's claim of priority to application **60/442310** filed 1/24/03 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1,5, 7, 8, 9, 12, 13,15,16 are rejected under 35 U.S.C. 102(b) as being anticipated by Huen 5240140 which discloses all the claimed elements including:

(Re: cl 1) A container for dispensing product in sheet form comprising: (i) said product in sheet form which will be dispensed; and (ii) a dispensing aperture for product in sheet form, said aperture having opposing lateral edges, at least one of said lateral edges comprising a rotatable roller, said lateral edges providing a nip passage for controllably dispensing said product in sheet form in a non-downwards direction (c2 L 25-37)

(Re: cl 5) wherein said lateral edges comprise material selected from the group consisting of plastic, metal, composite materials and combinations thereof (rubber c2 L 25-37)

(Re: cl 7) A container for dispensing a product in sheet form, said container comprising: (a) walls, said walls defining an inner cavity of said container for storing said product in sheet form prior to dispensing; and (b) a dispensing aperture in one of said walls, said aperture leading from said inner cavity to the environment external to said container, said aperture having opposing lateral edges, at least one of said lateral edges comprising a rotatable roller, said lateral edges providing a nip passage for controllably dispensing said product in sheet form (c2 L 25-37)

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(Re: cl 8) wherein both of said lateral edges comprise rotatable rollers (18 fig 1; 25-37)

(Re: cl 9) 7 wherein said container is either rigid or semi-rigid (c2 L 16-26)

(Re: cl 12)(11) wherein said closure (c) is either a lid or a resealable label (12; c2 L 16-25)

(Re: cl 13) further comprising: (d) a motor connected to said rotatable roller; and (e) optionally, a sensor connected to said motor, which upon activation of said sensor, said sensor activates said motor sufficient to turn said rotatable roller to dispense a predetermined quantity of said product in sheet form (c2 L 25-34)

(Re: cl 15) A container for dispensing a product in sheet form, said article comprising: (A) walls, said walls defining an inner cavity of said container for storing said product in sheet form prior to dispensing and one of said walls is a deck panel which includes a sealing section; (B) a dispensing aperture in said sealing section, said aperture having opposing lateral edges, at least one of said lateral edges comprising a rotatable roller, said lateral edges providing a nip passage for controllably dispensing said product in sheet form; and (C) a lid hingedly in association with one of said walls, said lid being closably overlying said sealing section (c2 L 25-37)

(Re: cl 16) wherein said container body is rigid (c2 L 16-26).

4. Claim(s) 1-5, 8-9, 13-18 and 20 is/are rejected under 35 U.S.C. 102(b) as being

anticipated by Gergek US20020033405A1 which discloses all the claimed elements including:

(Re: cl 1) A container for dispensing product in sheet form comprising: (i) said product in sheet form which will be dispensed; and (ii) a dispensing aperture for product in sheet form, said aperture having opposing lateral edges, at least one of said lateral edges comprising a rotatable roller, said lateral edges providing a nip passage for controllably dispensing said product in sheet form in a non-downwards direction (§ 32)

(Re: cl 2) wherein said product in sheet form is a continuous web of sheet material divided by a plurality of multiple lines of frangibility running at predetermined intervals substantially transversely to the major axis of the web and defining a plurality of individual wipes (§ 35,36)

(Re: cl 4) wherein both of said lateral edges comprise rotatable rollers (§ 32)

(Re: cl 5) wherein said lateral edges comprise material selected from the group consisting of plastic, metal, composite materials and combinations thereof (§ 36,38 inherent with such a drive system)

(Re: cl 7) A container for dispensing a product in sheet form, said container comprising: (a) walls, said walls defining an inner cavity of said container for storing said product in sheet form prior to dispensing; and (b) a dispensing aperture in one of said walls, said aperture leading from said inner cavity to the environment external to said container, said aperture having opposing lateral edges, at least one of said lateral edges comprising a rotatable roller, said lateral edges providing a nip passage for controllably dispensing said product in sheet form (§ 32)

(Re: cl 8) wherein both of said lateral edges comprise rotatable rollers (§ 32)

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(Re: cl 9) 7 wherein said container is either rigid or semi-rigid rigid (12/13 fig 1-inherent with such a shape)

(Re: cl 13) further comprising: (d) a motor connected to said rotatable roller; and (e) optionally, a sensor connected to said motor, which upon activation of said sensor, said sensor activates said motor sufficient to turn said rotatable roller to dispense a predetermined quantity of said product in sheet form (§36-38)

(Re: cl 14)(13) wherein said sensor is selected from the group consisting of light sensors, motion sensors, sound sensors, proximity sensors, travel sensors, rotation sensors, translation sensors, and combinations thereof (§34,36,38)

(Re: cl 15) A container for dispensing a product in sheet form, said article comprising: (A) walls, said walls defining an inner cavity of said container for storing said product in sheet form prior to dispensing and one of said walls is a deck panel which includes a sealing section; (B) a dispensing aperture in said sealing section, said aperture having opposing lateral edges, at least one of said lateral edges comprising a rotatable roller, said lateral edges providing a nip passage for controllably dispensing said product in sheet form; and (C) a lid hingedly in association with one of said walls, said lid being closably overlying said sealing section (§ 32)

(Re: cl 16) wherein said container body is rigid (12/13 fig 1-inherent with such a shape)

(Re: cl 17) wherein said product in sheet form is a plurality of discrete individual wipes which are interleaved (§ 35,36)

(Re: cl 18) wherein both of said lateral edges comprises rotatable rollers (§ 32)

(Re: cl 20) further comprising: (D) a motor connected to at least one of said pair of nipped rollers; and (E) optionally, a sensor connected to said motor, which upon activation of said sensor, said sensor activates said motor sufficient to turn said rotatable roller to dispense a predetermined quantity of said product in sheet form (§§ 36,38).

5. Claim(s) 1,3-4, 7-10, 15-18 is/are rejected under 35 U.S.C. 102(b) as being anticipated by West 2440993 which discloses all the claimed elements including:

(Re: cl 1) A container for dispensing product in sheet form comprising: (i) said product in sheet form which will be dispensed; and (ii) a dispensing aperture for product in sheet form, said aperture having opposing lateral edges, at least one of said lateral edges comprising a rotatable roller, said lateral edges providing a nip passage for controllably dispensing said product in sheet form in a non-downwards direction (c2 L 34-c3 L 9)

(Re: cl 3) wherein said product in sheet form is a plurality of discrete individual wipes which are interleaved (32 fig 4,8; c1 L 12-39;c4 L 1-11)

(Re: cl 4) wherein both of said lateral edges comprise rotatable rollers (15,16; c2 L 34-55)

(Re: cl 7) A container for dispensing a product in sheet form, said container comprising: (a) walls, said walls defining an inner cavity of said container for storing said product in sheet form prior to dispensing; and (b) a dispensing aperture in one of said walls, said aperture leading from said inner cavity to the environment external to said container, said aperture having opposing lateral edges, at least one of said lateral edges comprising a

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rotatable roller, said lateral edges providing a nip passage for controllably dispensing said product in sheet form (c2 L 34-c3 L 9)

(Re: cl 8) wherein both of said lateral edges comprise rotatable rollers (15,16; c2 L 34-55)

(Re: cl 9) 7 wherein said container is either rigid or semi-rigid.

(Re: cl 10) wherein said product in sheet form is a plurality of discrete individual wipes which are interleaved (32 fig 4,8; c1 L 12-39;c4 L 1-11)

(Re: cl 12)(11) wherein said closure (c) is either a lid or a resealable label (11;c2 L 34-55)

(Re: cl 15) A container for dispensing a product in sheet form, said article comprising: (A) walls, said walls defining an inner cavity of said container for storing said product in sheet form prior to dispensing and one of said walls is a deck panel which includes a sealing section; (B) a dispensing aperture in said sealing section, said aperture having opposing lateral edges, at least one of said lateral edges comprising a rotatable roller, said lateral edges providing a nip passage for controllably dispensing said product in sheet form; and (C) a lid hingedly in association with one of said walls, said lid being closably overlying said sealing section (c2 L 34-c3 L 9)

(Re: cl 16) wherein said container body is rigid (c1 L 12-30)

(Re: cl 17) wherein said product in sheet form is a plurality of discrete individual wipes which are interleaved (32 fig 4,8; c1 L 12-39; c4 L 1-11)

(Re: cl 18) wherein both of said lateral edges comprises rotatable rollers (15,16; c2 L 34-55).

6. As best understood, claim(s) 1,3-5 and 7-10, 15-18 is/are rejected under 35 U.S.C. 102(b) as being anticipated by/or in the alternative, under 35 U.S.C. 103(a) as obvious over West 2440993 which discloses all the claimed elements as previously discussed and West discloses or suggests:

(Re: cl 5) wherein said lateral edges comprise material selected from the group consisting of plastic, metal, composite materials and combinations thereof – (inherent to build such a dispensing roller including at least one of the specified materials).

It would have been obvious at the time of the invention for West to make a roller comprising some componentry comprised of plastic metal or composite materials to provide sufficient stiffness while having sufficient rotational wear resistance to have a marketable longevity and come up with the claimed invention.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim(s) 1, 5-6, 15-16 and 18-20 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Washington et al. 6976634 in view of Winkler 4877230 wherein the former discloses:

(Re: cl 1,15) A container for dispensing a product in sheet form, said article comprising: (A) walls, said walls defining an inner cavity of said container for storing said product in sheet form prior to dispensing and one of said walls is a deck panel which includes a sealing section (c31 L 55-65)

(B) a dispensing aperture in said sealing section, said aperture having opposing lateral edges, at least one of said lateral edges comprising a rotatable roller, said lateral edges providing a nip passage for controllably dispensing said product in sheet form; and (C) a lid (268) hingedly in association with one of said walls, said lid being closably overlying said sealing section (c31 L 55-65)

(Re: cl 16) wherein said container body is rigid (c29 L 51-61)

and the latter discloses any the elements not inherently taught by the former including:

(Re: cl 18) wherein both of said lateral edges comprises rotatable rollers (36)

(Re: cl 19,5, 6) wherein said wherein said rotatable rollers comprise a metal core (34 ; c5 L 54-67; c11 L 8-28) surrounded by a plastic coating (36) which contacts said product in sheet form (c5 L 54-c6 L 23)

(Re: cl 20) further comprising: (D) a motor connected to at least one of said pair of nipped rollers; and (E) optionally, a sensor connected to said motor, which upon activation of said sensor, said sensor activates said motor sufficient to turn said rotatable roller to dispense a predetermined quantity of said product in sheet form (c14 L 4-64).

It would have been obvious for Washington et al. to use nip rollers to get a more positive grip on the currency as taught by Winkler et al. and come up with the instant invention. It would have been obvious for Washington et al. to use plastic coated rollers with metal cores to get a predictable long term positive grip on the currency and lengthy wear of components as taught by Winkler et al. and come up with the instant invention.

Response to Amendments/Arguments

9. Applicant's amendments were effective in removing the indefiniteness rejections under 35 U.S.C. 112 second paragraph.

The applicant's arguments have been fully considered but they are unpersuasive in overcoming the anticipatory and obviousness rejections.

As applicant contends cards, tissues, towels, and cash are not sheets a look at Webster's Collegiate Dictionary 1998 finds amongst the definitions: A broad piece of cloth; 2 a rectangular piece of paper

Regarding Huen, playing cards are a sheet product. Playing cards typically are a rectangular piece of paper as in 14 fig 1 coated with a protective layer of a plastic or laminated within a clear plastic sheet. As such they qualify as sheets. Nothing in applicant's claims are directed toward a structure limited to webs instead of sheets, and only in claim 2 is any attempt made to claim a dispenser capable of dispensing a web dispensate. While Huen should be capable of dispensing a web dispensate, Huen was not applied in any rejection on claim 2 given the stronger other available art with respect to claim 2.

Regarding Gergek, a tissue is a sheet product. The abstract describes the dispensate as a sheet, and is converted from a web to a plurality sheet when the trailing rollers sever the rolled

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web from the lead rollers. Wipes are often described as tissues. The product is dispensed in a forward direction out of 17 front opening, and would further be capable of dispensing in a fully horizontal direction if the dispenser were placed on side 13 or its opposite unnumbered side.

Regarding West, paper towels are made of paper and are in sheet form, so they are a product in sheet form. West at col. 4 L 1-11 describes the towels as rectangular, refers to the towels in the titles as paper. As such, the towels in West qualify as sheets. Wipes are often described as towels. The rollers of West are capable of propelling the sheet in any direction.

Regarding Washington et al. in view of Winkler et al., cash is comprised of sheets of paper, and specifically in the Ohio locale of Washington et al. and their employer-assignee Diebold, cash is typically in the form of a green rectangular pieces of paper with black ink imprinted thereon. It is noteworthy that in the first paragraph of the background, Washington et al. refers to these documents as sheets. Checks typically also comprise rectangular pieces of paper in a greater variety of colors likewise with human readable ink and machine readable magnetic ink imprinted on them. As for motivation to use nip rollers, by pressing the second roller against the drive roller the dispenser gets a more positive grip on the currency will make the currency less likely to slip or feed sideways. Nothing in applicant's claims are directed toward a structure limited to dispensing webs instead of sheets, and only in claim 2 is any attempt made to claim a dispenser capable of dispensing a web dispensate. While Washington et al. in view of Winkler et al. should be capable of dispensing a web dispensate, that rejection was not applied in any rejection on claim 2 given the stronger other available art with respect to claim 2.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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